

General Information Letter: Definition and apportionment of business income.

August 6, 1998

Dear:

This is in response to your letter dated February 2, 1998, in which you request a General Information Letter. Please excuse the delay in this reply. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information we have enclosed a copy of 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the information you have provided requires that we respond with a general information letter.

In your request you stated:

Whereas we at xxxxxxxxxx, xxx. are a small family business, we have been advised by the Illinois Department of Revenue to file an IL 1120 S.

Our business has recently been servicing equipment on location of customers in Southern Illinois. Because of this, I would like to know what dollar amount I am supposed to show as Illinois Business Income. I generate revenue from businesses located in Illinois by...

1. Sending supplies from my office in Missouri to an Illinois customer by United Parcel Service or United States Postal Service.
2. Delivery of supplies to an Illinois customer by my own car or truck.
3. Driving to a customer in Illinois to service a machine and might also bring supplies to them on that same trip.

In all three of these instances I would charge the customer Illinois sales tax for goods purchased. Are all the dollars generated under

these three scenarios considered Illinois Business Income, to be reported on an 1120, or just portions of it due to service time in Illinois.

Based upon the information contained in your letter there is nexus between your company and Illinois. Accordingly, your situation is controlled by Section 304 of the Illinois Income Tax Act ("IITA") (copy enclosed). The calculation of business income for persons other than residents is made by use of a 3 factor formula as described in §304 (copy enclosed).

Section 304 requires persons other than residents who derive business income from Illinois to apportion that business income to Illinois, for tax purposes, in relation to their total income. You would therefore total your property, sales and payroll figures for Illinois and divide as §304 explains. Hence, you would not calculate each transaction with Illinois separately but combine all transactions into one sales factor. I am enclosing several regulations with this letter to help you understand the calculations. You should also be aware that §304 has been amended to adjust the weighting factors. I am enclosing the amended §304(h) which explains how the sales, payroll, and property factors are calculated.

I hope that this has been helpful to you. If you have additional questions please feel free to contact me at the above address.

Sincerely,

Charles E. Matoesian
Associate Attorney (Income Tax)